



## Filing Receipt

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**PROJECT NO. 51841**

<b>REVIEW OF 16 TAC § 25.52</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>RELATING TO ELECTRIC SERVICE</b>	<b>§</b>	
<b>EMERGENCY OPERATIONS PLANS</b>	<b>§</b>	<b>OF TEXAS</b>

**ENBRIDGE INC.’S RESPONSE  
TO STAFF’S PROPOSAL FOR PUBLICATION FOR COMMENT**

Enbridge, Inc. (“Enbridge”) appreciates the opportunity to submit its comments on the Commission Staff’s proposed amendments to 16 Texas Administrative Code (“TAC”) § 25.52, as proposed for publication on November 30, 2021 (“the Proposed Rule”), and is prepared to respond to further inquiries by Staff or comments submitted by other stakeholders. Enbridge is a leading energy infrastructure entity in Texas. We have over 1,400 Houston-based employees and provisioned contractors, and we own and operate significant oil and gas assets in Texas, as well as three wind generation facilities we operate with our partners (Chapman Ranch Wind I, Keechi Wind and Magic Valley Wind). Enbridge would be directly impacted by the Proposed Rule.

**I. EXECUTIVE SUMMARY**

Enbridge maintains Emergency Operations Plans (“EOPs”) at our power generation assets and conducts regular drills to ensure our personnel are prepared to operate safely in emergency conditions. We support the principle of making power generation, transmission, and distribution assets safe and reliable.

However, Enbridge submits that several of the requirements proposed in the Proposed Rule would create unnecessary administrative burdens, expose those required to file to unnecessary commercial harm (i.e., without a proportionate benefit to reliability of the grid), and unintentionally limit entities’ ability to manage safety programs as best suits their particular

operations and personnel.

As a result, Enbridge herein proposes edits to the Proposed Rule that would reduce these unnecessary costs and risks to the safe and reliable operation of the ERCOT grid while still enabling the collection and review of the key emergency preparedness information that the Commission requires (specific language changes are included in the Appendix to these comments).

- EOPs are not intended to establish performance standards, nor are such standards within the scope of this Project, and references to “providing adequate electricity during an emergency” should be removed.
- EOPs have been established by each Resource Entity based on its asset technology, operational structure, and safety protocols. Entities should retain ultimate control over their EOPs as each structure and technology is unique, and as any changes may require engineering or other considerations, on which ERCOT would not be in a position to make determinations. Furthermore, entities must be provided ample time to review and test any change the Commission or ERCOT may request to an EOP. EOPs are critical to the safety of personnel and property and changes must not be rushed or made without due consideration of all potential related risks.
- Filing requirements should be limited to only information ERCOT and the Commission need to help ensure a safe and reliable grid. For example, details on internal names, version iterations, distribution lists, etc., should not be required, and “Lessons Learned” documents are typically treated as extremely commercially sensitive such that sharing outside Privilege in some circumstances could cause substantial commercial harm that would not be offset by any advantage to the grid and/or to the public.
- As the amendments are in draft form, still awaiting a public hearing and potential further consultation and revision, and as it will be critical to enable entities to thoroughly vet and test any changes to existing EOPs, Enbridge submits that the filing date for 2022 should be amended so that six months are provided from the date the final rule is adopted.

## **II. INTRODUCTION**

Safety is Enbridge’s top priority – safety of our personnel and our assets. We support the principle that underlies the Proposed Rule that electric generation, transmission and distribution assets should be prepared to respond safely and perform to design specifications in emergency situations. Enbridge has established EOPs at our assets and our personnel undertake regular drills,

so everyone is prepared to act in an emergency.

Entities develop EOPs based on technical guidance from equipment suppliers, from industry best practices, and from experience, among other sources, and each EOP is unique to an asset's technology, location, operational structure, and the entity's safety program. We support the Commission's objective of ensuring all resources have these plans in place but we submit that entities must retain the flexibility to establish and maintain EOPs that meet their unique operational needs.

Enbridge also supports the ongoing practice of regular drills as these are invaluable in keeping all applicable personnel prepared to act in an emergency. Entities must retain final decision-making authority on the content and focus of drills, as those are based on team experience, technology, location, and other factors unique to each asset. Drills are time-intensive and costly, and can impact operation of the asset, so it is important that entities maximize the benefit to the safety of personnel and property of each drill.

Most importantly, as these EOPs are critical to safety, change management is extremely important. Any updates to existing EOPs must be thoroughly reviewed, tested, and discussed within the entity – among all its applicable stakeholders – before they can be adopted, in order to ensure there are no new risks inadvertently created and left unaddressed. It is important that sufficient time be provided to enable this testing and review process.

Enbridge provides more detailed comments below on the specific sections of the Proposed Rule. In all cases, Enbridge assumes that the Commission's intent is that entities will use their best reasonable judgement in interpreting these rules and that they are not intended to be overly prescriptive. To the extent the Commission has specific requirements in mind, e.g., guidance for how entities should determine what provisions apply to their resources and/or guidance as to what

details should be used in explanations as to why specific provisions do not apply, we request those are made clear and available for comment prior to the adoption of the final rule.

### **III. SECTION REVIEW**

#### ***§ 25.53 Electric Service Emergency Operations Plans***

***(b)(4) Emergency Operations Plan – the plan and attached annexes maintained on a continuous basis by an entity, intended to protect life and property and ensure continuity of adequate electric service in response to an Emergency.***

Enbridge submits that the definition should be amended as below. EOPs focus on addressing potential threats to life or property. The first priority is to ensure that safety of any personnel. Next, EOPs seek to preserve and/or restore the generating resource, so that it can continue to perform as designed under the applicable circumstances.

EOPs do not seek to establish or meet a specific performance standard, and we submit it would be inappropriate to include such a requirement as it could direct efforts and attention away from the far more important objectives under the EOP of preserving and/or restoring safety of life and property during an emergency.

Enbridge Proposed Change: *(b)(4) Emergency Operations Plan – the plan and attached annexes maintained on a continuous basis by an entity, intended to protect life and property ~~and ensure continuity of adequate electric service~~ in response to an Emergency.*

***(c)(1) An entity must file an EOP under this section by April 1, 2022.***

There are many aspects of this Proposed Rule that are still unclear and undecided as of early-January, which may continue into the spring given the importance and detailed nature of EOPs.

Enbridge submits it is absolutely critical that changes of any kind, made to existing EOPs in order to comply with amendments adopted under this Project, are thoroughly vetted and tested

by entities before adopting them to ensure they do not negatively impact the safety of personnel or property. As a result, we submit (c)(1) should be amended to provide a period of six months to adapt EOPs as necessary.

Enbridge Proposed Change: *(c)(1) An entity must file an EOP under this section six calendar months of the date the final rule is adopted by the Commission.*

***(c)(1)(c) Beginning in 2023, the annual EOP must include, for each incident in the prior calendar year that required the entity to activate its EOP, a summary after-action report that includes lessons learned and an outline of changes the entity made to the EOP as a result.***

Enbridge submits that (c)(1)(c) should be deleted in its entirety. Lessons learned and rationale behind changes made to an entity's EOP are highly commercially sensitive and often not shared outside the Privilege of Counsel as doing so could expose the entity to business harm it would not otherwise have incurred. A requirement to share lessons learned could inadvertently inhibit entities' flexibility and ability to earnestly analyze events and update EOPs. This limit on critical analysis would result in unnecessary risk and danger in the grid.

ERCOT and the Commission will have the updated EOP each year and the preceding year's EOP. In the event they would like to review for any updates, it will be possible to compare the two documents. As the information will already be available to any who need, there is no clear benefit to offset the potentially substantial commercial harm and risk to the grid of also requiring highly confidential lessons learned and after-action reports be filed.

Enbridge Proposed Change: Delete (c)(1)(c) in its entirety.

***(c)(4)(a) An entity must file an updated EOP if commission staff determines that the entity's EOP on file does not contain sufficient information to determine whether the entity can provide adequate electric service through an emergency.***

As noted above, EOPs are not intended to establish performance standards for generation resources. EOPs are intended to preserve and/or restore the safety of life and property during an emergency. Reliability programs and weather preparation plans help to ensure that an asset will perform within design standards.

As a result, Enbridge submits that (c)(4)(a) should be deleted in its entirety as it appears to provide the Commission open-ended discretion to enforce a performance standard during an emergency, which is not within the scope of this Project.

Enbridge Proposed Change: Delete (c)(4)(a) in its entirety.

***(c)(4)(b) An entity must file an updated EOP in response to feedback provided from commission staff.***

Enbridge supports cooperation with the Commission in ensuring that all generation resources meet a high standard for safety of life and property. However, this provision is broad and does not appear to provide any room for the entity's expertise over its own asset, personnel and safety programs. Entities are the experts in operating their generation, transmission and distribution resources, and it would not be appropriate to make changes to a document as critical as the EOP without ample time for review of the Commission's suggestions, review of existing programs, vetting and testing the proposed changes, and then follow-up with the Commission. A less fulsome process could put life and property at unnecessary risk, and could create liability risk for ERCOT or the Commission where changes are mandated without specific knowledge of the technology or detailed operating procedures.

Enbridge recommends amending this part of the filing requirements to enable this more fulsome process.

***(d) Information to be included in the emergency operations plan. An entity's EOP must address both common operation functions that can be used for every type of emergency and annexes that outline the entity's response to the types of emergencies specified in subsection (e).***

As no EOP can capture every type of emergency, and as we believe the intent is simply to differentiate between general emergency preparedness and the specific annexes, we recommend the slight change below.

Enbridge Proposed Change: *(d) Information to be included in the emergency operations plan. An entity's EOP must address both common operation functions that can be used for ~~every type of emergency~~ most common emergencies and annexes that outline the entity's response to the types of emergencies specified in subsection (e).*

***(d)(2) A record of distribution that contains the following in table format: (A) titles and names of persons in the entity's organization receiving the EOP; and (B) dates of distribution.***

Enbridge submits that it is not clear why ERCOT or the Commission would require this administratively burdensome information. Under the proposed amended rules, ERCOT and the Commission would have the EOP and an affidavit from the highest-ranking person responsible for the filing entity confirming that applicable personnel have received the EOP and have been trained on it. Entities will each have unique operational models and structures, so it is most important that the entity can confirm applicable personnel within its unique model have been trained and is not relevant what names and titles those personnel may have within the entity.

As a result, ERCOT and the Commission will already have all the pertinent information, which makes filing this additional detail purely a duplicative administrative burden for the entity to produce and the Commission to review. Enbridge submits (d)(2) should be deleted in its entirety.

Enbridge Proposed Change: Delete (d)(2) in its entirety.

- (e)(2)(G) A cyber security annex;***  
***(e)(2)(H) A physical security annex:***

Disclosure of the above-noted policies and protections outside of an entity's secure network represents an inherent threat to the life, property, and systems required to operate generation resources safely and reliably. An entity's cybersecurity response plan is proprietary and highly confidential. An attacker could use this information to gauge how to evade defenses and cause direct harm to an entity and its generation resources. Any transmittal outside an entity's secure network of cybersecurity protections and emergency operations is a risk to the prevention of and/or recovery from cyberattacks. As a result, Enbridge does not disclose or otherwise share our full policies with any other organizations on a regular basis.

Enbridge requests that entities instead be required only to state that they have cybersecurity and physical policies in place, that they do have such annexes in their EOP, and that relevant personnel are trained on the applicable policies. In the event, the Commission wanted to be more specific on cybersecurity, it could also request that entities confirm their policies are aligned to leading industry standards and guidelines, including those from the National Institute of Standards and Technology ("NIST"), the Department of Homeland Security ("DHS"), and the International Organization of Standardization ("ISO").

Enbridge Proposed Changes:

- (e)(2)(G) A cyber security annex that includes only the confirmation that a cybersecurity EOP exists, is incorporated into the entity's broader EOP and updated as needed, and that all relevant staff are trained annually on the cybersecurity EOP. No further detail is required;*
- (e)(2)(H) A physical security annex that includes only the confirmation that a cybersecurity EOP exists, is incorporated into the entity's broader EOP and updated as needed, and that all relevant staff are trained annually on the physical security EOP. No further detail is required;*

#### **IV. CONCLUSION**

Enbridge appreciates the opportunity to submit these comments for the Commission's consideration, and looks forward to continuing to work with all stakeholders in this Project. Safety is our top priority and, insofar as entities retain control of EOPs and change management processes, we support the objective of ensuring all resources have emergency plans in place to help ensure the safety of personnel and property during emergencies.

Respectfully Submitted,

ENBRIDGE. INC.



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